

### REMARKS

Claims 31-40 and 42-47 are pending in this application. In this Response, Applicants have amended certain claims because Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

In particular, independent claim 38 has been rewritten to include the subject matter previously recited in claim 41. Accordingly, claim 41 has been canceled. In addition, new claims 43-47 have been added to recite additional embodiments fully supported by the Written Description. *See, e.g.*, Page 13, lines 20-25. Finally, the Written Description has been amended to update the status of the parent application.

As no new matter has been added by the amendments herein, Applicants respectfully request entry of these amendments at this time.

### THE REJECTIONS UNDER 35 U.S.C. § 103

Claims 38-40 and 42 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,779,562 to Melvin *et al.* for the reasons provided on page 2 of the Office Action. Melvin does not disclose or suggest the present invention for at least the reasons that follow.

Melvin generally discloses a golf ball having a solid core formed from conventional rubber-based materials. Col. 5, lines 11-18. The rubber-based materials can include modifying ingredients such as metal oxides, fatty acids, diisocyanates, and polypropylene powder resins. Col. 6, lines 41-45. Melvin does not teach the thermoplastic materials now recited in claim 38. For at least this reason, Applicants respectfully request reconsideration and withdrawal of the §§ 102 and 103 rejections based on Melvin.

### DOUBLE PATENTING REJECTIONS

Claims 31-42 were rejected under the judicially created doctrine of obviousness-type double patenting as obvious over claims 1-34 of U.S. Patent No. 6,284,810 ("the grandparent") and claims 1-29 of U.S. Patent No. 6,762,244 ("the parent"). Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) in order to overcome the double patenting rejections based on the parent and grandparent patents. As such, Applicants respectfully submit that the double patenting rejections based on these patents is overcome.

**NEW CLAIMS ADDED WITH THIS RESPONSE:**

Applicants respectfully submit that new claims 43-47 are also not anticipated by or rendered obvious over Melvin. While Melvin does teach rubber-based materials that can include polypropylene powder resins (Col. 6, lines 41-45), those of ordinary skill in the art are aware that polypropylene does not melt below 160°C. As such, a skilled artisan would not have been motivated to substitute polypropylene for another "modifying" material having a lower melting point without the improper use of hindsight.

**ATTORNEY DOCKET NUMBER**

Applicants submit a Request for Change in Attorney Docket Number in order to reflect the change from 20002.0101A to 20002.0381. Applicants respectfully request recognition of this change in future correspondence relating to this application.

**CONCLUSION**

All claims are believed to be in condition for allowance. If the Examiner believes that the present amendments still do not resolve all of the issues regarding patentability of the pending claims, Applicants invite the Examiner to contact the undersigned attorneys to discuss any remaining issues.

A Fee Sheet Transmittal is submitted herewith to pay for the Terminal Disclaimer. No other fees are believed to be due for this amendment. Should any fee be required, however, please charge such fee to Swidler Berlin LLP Deposit Account No. 195127, Order No. 20002.0381.

Respectfully submitted,  
SWIDLER BERLIN LLP

Dated: September 28, 2005

By: Stephanie D. Scruggs  
Stephanie D. Scruggs, Registration No. 54,432  
SWIDLER BERLIN LLP  
3000 K Street, NW, Suite 300  
Washington, D.C. 20007  
(202) 424-7755 Telephone  
(202) 295-8478 Facsimile